

# **Mutual Aid and Interlocal Agreement Handbook**



**State of Washington  
Military Department  
Emergency Management Division  
September 2009**

# MUTUAL AID AND INTERLOCAL AGREEMENT HANDBOOK

SEPTEMBER 2009

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## **PREFACE**

Jurisdictions are encouraged to formulate agreements to enhance their emergency planning and response capabilities. However, lack of clear lines of authority and responsibility frequently lead to a reduced capability to respond effectively. To identify and resolve any potential conflict during a disaster, two specific types of Agreements have been developed.

This handbook explains the difference between Mutual Aid Agreements and Interlocal Agreements. It describes what each type of agreement is best suited to accomplish, what should be included in preparation either agreement, who initiates the agreement and how to get an agreement executed.

This handbook may be used as a reference document for the development of either agreement. There are certain legal requirements under Washington law that must be followed in preparing these agreements (e.g., RCW 38.52.091 and RCW 39.34.030). While this handbook is intended to be helpful in preparing agreements, it cannot substitute for legal review of the final agreement. Therefore, any agreement should undergo a step-by-step legal review prior to final approval by the respective parties.

Questions, comments, and suggestions should be addressed to:

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Emergency Management Division  
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MS: TA-20, Building 20  
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## EXECUTIVE SUMMARY

Mutual Aid and Interlocal Agreements exist to provide jurisdictions with the opportunity to exchange services during an emergency or disaster.

A Mutual Aid Agreement is general in nature and is basically an understanding that support will be provided, *if possible*. The type of service to be provided is frequently open ended. A Mutual Aid Agreement is an understanding that, "...my jurisdiction will assist your jurisdiction during an emergency. Give me a call, let me know what you need, and I'll see what we can do." In most circumstances Mutual Aid Agreements are required to be implemented before assistance is requested from the state.

An Interlocal Agreement is specific in perspective and it is more contractual in design, but is less flexible. With an Interlocal Agreement, specific services are agreed upon to be provided under defined conditions. An Interlocal Agreement provides a much clearer understanding of what support may be received during an emergency or disaster, and whether reimbursement is expected.

It is important to understand that both Mutual Aid and Interlocal Agreements are contracts and can say and do what the parties want and agree should be done. In preparing agreements, legal authorities of the jurisdictions, prosecuting attorneys, city attorneys, or hired counsel should play an important part in drafting the document. What is prepared and signed is a matter of coordination and agreement between the jurisdictions and must comply with legal requirements for that jurisdiction. Once signed it is a contractual obligation.

A Mutual Aid Agreement is generally a written understanding between jurisdiction's emergency management organizations to provide reciprocal emergency management aid and assistance. Such arrangements are authorized in Chapter 38.52.091 of the Revised Code of Washington. The Mutual Aid Agreements are to be consistent with the state Comprehensive Emergency Management Plan and program. In an emergency, each signatory jurisdiction is responsible for providing assistance as they are able and within their capabilities in accordance with the signed agreement in place with another jurisdiction.

The purpose of an Interlocal Agreement is to permit jurisdictions to make the most efficient use of their powers by enabling them to cooperate with other jurisdictions on a basis of mutual advantage. An Interlocal Agreement will allow the jurisdictions to provide or receive services and facilities from other jurisdictions specifically identified in the Interlocal Agreement. Interlocal Agreements are in effect a contract and are discussed in Chapter 39.34, Revised Code of Washington.

## **MUTUAL AID AND INTERLOCAL AGREEMENTS**

### **COMMON CHARACTERISTICS OF MUTUAL AID AND INTERLOCAL AGREEMENTS**

- Written understandings between at least two parties.
- Establishment of an assisted relationship between the parties.
- Documented proof of the agreement and its contents through signed authorization.
- Definition of the parties involved, identification of respective responsibilities; definition of how and when they are to be implemented.
- Provision for the utilization of county, city, or other organizations, resources to augment impacted or insufficient resources or capabilities of other jurisdictions or organizations, thus allowing for greater flexibility for all participants.
- Limitation of costs by overcoming budgetary restrictions, equipment shortages and operations or capabilities limitations.
- Provision of liability protection to the participating parties.
- Reduction of the possibility of the duplication of services and equipment.
- Enhancement of communication and cooperation between the participating parties.
- Reduction of the misunderstandings between participating parties, which often exist when assistance is requested or provided on an informal basis.
- Provision of a legal basis for a participating party to operate outside its jurisdiction.
- Provision of an agreement that spans changes in government when administrations change.

### **DISTINGUISHING FEATURES BETWEEN A MUTUAL AID AND INTERLOCAL AGREEMENT**

#### **A Mutual Aid Agreement:**

- Is imprecise in designating resources or capabilities needed or to be provided;
- Is based on the concept that resources, materials or services are, in most circumstances, voluntarily provided by the parties to the agreement during emergency or disaster events with the idea that there will be a reciprocal exchange of roughly comparable value, if and when required;
- Is based on the idea that resources, materials or services provided would not result in profit to the providing party;
- Commits participating parties to a mutually beneficial, cooperative agreement based on principles and concepts of contract law which support protecting lives

and property;

- Provides a mechanism for coping with emergency situations or events that allows maximum flexibility in the use of resources;
- Can assure parties providing assistance that they may withhold all or part of their resources under certain conditions;
- Should provide that a party requesting assistance will indemnify the party providing the assistance for any resulting liability.

#### **An Interlocal Agreement:**

- Is very precise and identifies the specific service, activity, or undertaking the jurisdictions are authorized by law to perform;
- Emphasizes the fulfillment of the itemized tasks and terms in the Interlocal Agreement;
- Is based on the concept that one local jurisdiction pays for the provision of a service, activity, or undertaking;
- Identifies the specific costs of the clearly defined resources, materials, or services;
- Is based on the principles and concepts of contract law. Failure to provide the service, activity or undertaking would constitute, in most cases, a breach of contract;
- Provides a mechanism to deal with day-to-day services, activities, or understandings, as opposed to emergencies or disasters, which occur on an unscheduled or infrequent basis;
- Does not provide a flexible mechanism to respond to unusual situations not identified within the scope of the Interlocal Agreement.

### **COORDINATING AN AGREEMENT**

There is no set manner in which either a Mutual Aid or Interlocal Agreement should be coordinated, however, it is absolutely essential that such agreements be properly coordinated. Each agreement is unique. This comes from the fact that there are different operating environments, needs, capabilities and organizational structures, even though the jurisdictions may be classed as federal, state, county, city, town, or district. The following are some general guidelines to follow:

#### **1. Conduct a comprehensive local needs assessment.**

If the assessment identifies needs in the requesting jurisdiction that cannot be met, or are only partially met, other jurisdictions or organizations may have the resources available. Determine who can satisfy those needs.

2. **Determine if a Mutual Aid or Interlocal Agreement best meets the needs of the jurisdiction or organization.**

The type of agreement will be determined by the intent and needs. A Mutual Aid Agreement works well when a broad scope agreement is required to provide assistance during an emergency or disaster. An Interlocal Agreement may be preferred when clearly defined deliverables are required under specific conditions and may include reimbursement.

3. **Contact the key staff in the appropriate jurisdiction or organization.**

Create a working group of key staff who must be involved in drafting an agreement. Involve those individuals who have the authority and interest to enter into an agreement for that jurisdiction or organization.

4. **Conduct meetings and discussions to get input on the agreement.**

Representatives of various groups can identify the problems, find solutions and answer questions necessary to prepare a draft agreement for review by key officials. The language of the agreement should clearly reflect the intent of the parties. Special attention should be given to preparing the agreements so there are no misunderstandings and the intent and purpose is clear to all.

5. **Conduct a review and incorporate comments into the agreement.**

Once the first draft has been reviewed and revised by the work group, the agreement should be submitted to the appropriate legal counsel for review and comment.

6. **Revise the draft document and brief key officials.**

Include necessary revisions suggested by legal counsel and present the final draft to key officials for comments. If the key officials change any of the legal counsel comments, the revised document will need a second legal review.

7. **Prepare the final copy for signature.**

Provide a copy for signature to the appropriate officials or representatives of the parties to the agreement. Ensure additional resolutions, ordinances or other supplemental documents required to implement the agreement are passed or adopted. These documents should either be attached or referenced in the agreement.

8. **Exchange and file the signed agreement.**

Each participating party must follow necessary legal requirements to comply with local policy and submit executed copies to the county auditor as per RCW 39.34.040, Law of 2006, Change 32. Participating parties are no longer required to submit executed copies to the Office of the Secretary of State.

## **PREPARATION OF AN AGREEMENT**

As the participating jurisdictions come together to prepare the agreement, several things should be kept in mind:

- Determine the type of agreement that is most appropriate;
- An agreement creates an obligation;
- It is a promise, or more often, a set of promises that the jurisdictions make to each other;
- It is important to understand that each jurisdiction entering into the agreement has a mutual responsibility to perform the agreement together;
- These promises are enforceable by law

Each participating jurisdiction should consult with the prosecuting attorney, city attorney, or other legal counsel for assistance and advice in the preparation and negotiation of the agreement.

The agreement consists of the agreement documents, exhibits and/or attachments, prior documents and subsequent documents that clarify or amend it (e.g., letters, formal changes, resolutions, statutes, proclamations, ordinances, preambles, requests for assistance and responses).

The language of the agreement should clearly reflect the intent of the jurisdictions. It should say what the signatories want and intend it to say. Questions may arise if two terms conflict, if a term is ambiguous, or if there is uncertainty about what a term means. Some recognized rules of interpretation have been established to assist in establishing the meaning of an agreement in these instances.

The purpose of the rules of interpretation is to determine the probable intent of the jurisdictions at the time they entered into the agreement. The intent of the jurisdictions is established by examining how the jurisdictions expressed themselves through their words, actions, or inactions.

### **1. Common Sense**

Common sense is the most important rule for interpreting agreements. The rules of interpretation are intended to reflect this. The words and acts of the jurisdictions are interpreted in light of the meaning that the words or acts would have conveyed to any reasonable person standing in the place of the jurisdictions at the time the agreement was executed.

### **2. Implied Legal Requirements**

Though not written in the agreement documents, there are many other terms of an agreement implied by law. It is implied in every agreement that the jurisdictions are dealing with each other in good faith and cooperation. It is implicit that the jurisdictions are in agreement and will do nothing contrary to the goals of the agreement. Some implied terms can be changed if the jurisdictions so indicate in the agreement document.

An example of this is that the service provided by the aiding jurisdiction will be the same as the service provided to the constituents of the aiding jurisdiction. The jurisdictions cannot alter federal or state safety standards for workers (unless they make the standards higher than the highest standard imposed by federal or state law).



3. **Agreement Interpreted as a Whole**

To interpret an agreement it should be read as a whole document. Particular words, phrases, or clauses are not read and interpreted alone. If possible, all provisions of an agreement are interpreted to have a meaning in harmony.

4. **Custom and Usage**

Government practice may be used in interpreting the agreement unless there is an expressed or explicit term within the agreement in conflict with the asserted customary practice or usage of the term. Thus, in the absence of such an expressed term, the standard of performance on which the agreement is to be based is that which is the usual standard in the particular jurisdictional entity.

5. **Precedence of Words and Terms**

The agreement generally sets forth the precedence or importance to be accorded to words and terms in case a conflict exists.

Precedence is established within the contract document and unless changes are consented to in writing, they should not be considered for any priority.

In the event of an inconsistency in this contract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

- (a) **Applicable Federal and State Statutes and Regulations**
- (b) **Statement of Work**
- (c) **Special Terms and Conditions**
- (d) **General Terms and Conditions, and if attached,**
- (e) **any other provisions of the contract incorporated by reference.**

This contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind any of the parties hereto.

6. **Contract Modifications**

The Department and the Contractor may, from time to time, request changes to the contract. Any such changes that are mutually agreed upon by the parties to this contract shall be incorporated herein by written amendment to this contract. It is mutually agreed and understood that no alteration or variation of the terms of this contract shall be valid unless made in writing and signed by the parties hereto, and that any oral understanding or agreements not incorporated herein unless made in writing and signed by the parties hereto, shall not be binding.

7. **Ambiguities Construed Against the Drafter**

The rule of interpretation is used as a rule of last resort. After applying the foregoing rules, if the meaning of the agreement is uncertain, clarify the ambiguous language by consulting the original jurisdiction drafting the language or drawing. This demonstrates the need for maintaining all correspondence. Any clarification or change would have to

be in writing in the form of an amendment signed by all parties.

8. **Duty to Seek Clarification**

A participating jurisdiction has a duty during the development phase to inquire about obvious ambiguities, omissions, or conflicts in the provisions.

## MUTUAL AID AGREEMENT FORMAT

The following is a format with recommended elements for a Mutual Aid Agreement. Elements may be added, deleted and/or combined to fit the situation.

**Preliminary** - List the ordinances, resolutions, or executive orders implementing and putting into force the agreement. Items are provided by all parties to the agreement and should be limited to one or two pages.

**Preamble to the Agreement** - Provide a brief description to the agreement, to include background, need, purpose and what the agreement will provide (i.e., an executive summary).

### Basic Document

**Participating Parties** - a precise description of the jurisdictions and/or private corporations entering into such an agreement along with the terms to be used to describe the entity throughout the document (i.e., the assisting and assisted jurisdictions).

**Purpose** - a brief, but comprehensive, general description of the assistance to be rendered.

**Authorization** - reference is made to applicable specific federal, state and local laws, codes, statutes, ordinances and/or resolutions.

**Assistance to be Rendered** - a more detailed description of goods and services to be rendered by the participating jurisdictions and the standard of goods and services to be provided.

**Condition for Implementation** - description of the conditions for requesting, offering and/or withdrawing support. The form in which the request or offer will be made should be stated.

**Request for Assistance** - description of the manner in which the requesting party will make their request and the designation of the official authorized to make the request.

**Command, Control, Coordination and Communication Responsibilities** - conditions for implementing the agreement are described. How the personnel and equipment of the providing jurisdiction are described.

**Post Response** - describes the method by which the request for assistance and/or response to the request is terminated. This may include returning equipment, releasing personnel, acquiring property and holding and disposing of equipment and property.

**Compensation** - this is the jurisdiction's agreement to seek or not to seek compensation for the services and goods provided and for the losses incurred. Wages, materials and equipment costs and, in particular, workers' compensation should be addressed. For instance, if overtime costs are to be reimbursed, it should be clearly stated.

**Insurance** - who will, and what type of insurance coverage the agreeing parties will provide.

**Liability** - the responsibility for liabilities is stated.

**Agreement Term** - establishes a regularly scheduled review of the agreement, specific operational procedures, procedure for resolving disagreement, developing possible changes to the agreement, or any other action that will facilitate the intent of the agreement.

**Agreement Administration** - a provision for administering the agreement and representing the jurisdictions involved, along with any financing or budget requirements associated with the agreement.

**Agreement not Exclusive** - includes a statement that the agreement is not intended to be exclusive between the jurisdictions and that other agreements can be entered into by the participating parties.

**Signature Blocks** - a signature block for the key executive officials and the attesting official of all participating jurisdictions and authority, if necessary.

**MUTUAL AID AGREEMENT  
BETWEEN  
CITY OF FREDERICKSBURG  
AND  
SYCAMORE COUNTY, STATE OF WASHINGTON**

This agreement is made and entered into this day of July 1, 2000 by and between the City of Fredericksburg and Sycamore County, state of Washington.

WHEREAS, it is desirable that the resources and facilities of the state, its various departments and agencies, and all its political subdivisions, municipal corporations, and other public agencies, be made available to prevent and combat the effects of emergencies and disasters which may result from such situations as volcanic eruption, flood, fire, earthquake, tsunamis, or other natural or technological hazards;

WHEREAS, an agreement of this nature is authorized under state of Washington Chapter 38.52 Revised Code of Washington;

WHEREAS, it is necessary and desirable that an appropriate agreement be executed for the interchange of such mutual aid;

NOW, THEREFORE, it is hereby agreed by and among each and all of the parties hereto as follows:

1. Each party to this agreement shall develop a plan known as a Mutual Aid Operational Plan providing for the effective mobilization and utilization of its resources to manage with agreed types of emergencies or disasters. Such plans shall list the resources and services that can be made available by the parties to this agreement and shall indicate the method and manner by which such resources and services can be utilized by the other parties. Such plans shall also give the amount and manner of payment and/or compensation for the utilization of such resources and services.
2. Each party to this agreement agrees to furnish those resources and services to each other's party hereto as necessary to assist in the prevention and combating of emergencies or disasters in accordance with the adopted Mutual Aid Operational Plan.
3. It is hereby understood that unless adopted Mutual Aid Operational Plans dictate otherwise, all services and/or resources provided under the terms of this Mutual Aid Agreement are furnished and/or supplied voluntarily and at the discretion of the furnishing agency. The furnishing agency shall have the primary interest of protecting the welfare of its own constituency and does not assume any responsibilities or liabilities in not providing resources and/or services to other parties of this agreement.

4. It is hereby understood that the agreements entered into hereunder and the corresponding Mutual Aid Operational Plans adopted shall not supplant existing mutual aid agreements nor deny the right of any party hereto to negotiate supplemental mutual aid agreements.
5. Mutual aid extended pursuant to this agreement shall be furnished in accordance with the provisions of Chapter 38.52 Revised Code of Washington, as well as other provisions of law.
6. This agreement shall be effective as to each party when the legislative body of each such party has approved the same by resolution or ordinance or other action with the Washington State Military Department, Emergency Management Division. Said agreement shall be operative and binding until terminated by said participants or \_\_\_\_\_, 2 \_\_\_\_\_ whichever comes first.
7. This agreement will be reviewed bi-annually by all parties. Any party to this agreement may withdraw from the same at any time by giving thirty (30) day written notice to the other party (ies).

**Sycamore County, Washington**

\_\_\_\_\_  
James J. Oglesby  
County Commissioner

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

\_\_\_\_\_  
Sylvia Laramie  
Prosecuting Attorney

\_\_\_\_\_  
Date

**City of Fredericksburg**

\_\_\_\_\_  
Sharie Post  
Mayor

\_\_\_\_\_  
Date

## INTERLOCAL AGREEMENT FORMAT

The following is one format for an Interlocal Agreement. It is the standard form used in the state for a contract agreement. In that all agreements are contractual in nature, it is important that their form and content be consistent with the standards of the parties to the agreement. The agreement should have the review and approval of the prosecuting attorney, city attorney, or whoever is appropriate to the jurisdictions.

**Preliminary** - identifies the parties to the agreement and provides a specific purpose statement.

### Basic Document

**Funding** - the amount of funds to be awarded to the contractor are included. Because of the nature of the situation that would require implementation of the agreement, the contract should have flexibility. It should permit the contractor to provide services but include a fiscal limit to maintain control of costs.

**Service Provisions** - statement of how the funds are to be used. A more detailed Scope of Work should be attached.

**Agreement Period** - the beginning and end date of the agreement.

**Reimbursement Provisions** - details of how the contractor must claim their funds, the time period in which the claim may be processed and settled and the last date by which a claim may be settled.

**Recapture Provisions** - in the circumstance that the jurisdiction is not satisfied that the terms of the contract were met, the conditions for reclaiming funds is established.

**Evaluation and Monitoring** - defines the access the jurisdiction will have to the records and files of the contractor.

**Nondiscrimination Provision** - establishes that the contractor will not discriminate against any employee paid by the jurisdiction and will comply with the terms of the Americans with Disabilities Act and others.

**Agreement Modifications** - describes the manner in which the Interlocal Agreement may be modified.

**Termination and Review of Agreement** - the terms for terminating and reviewing the agreement prior to the end of the agreement period.

**Contractor not Employee of Jurisdiction** - avoids conflict of interest. Neither the contractor nor contractor employees are to be a member of the jurisdiction negotiating the agreement.

**Records, Documents and Reports** - identifies the books, records, documents and procedures that reflect costs.

**Travel and Subsistence Reimbursement** - establishes the rate of reimbursement for travel and per diem performed in support of the agreement. Commonly the state travel regulations are cited.

**Special Provision** - the jurisdiction does not waive any agreement rights because strict conformances of other provisions of the agreement have not been required.

**Hold Harmless** - the contractor will not hold the jurisdiction liable for damages incurred in the fulfillment of the agreement.

**Governing Law and Venue** - establishes that the laws of the state of Washington govern the agreement.

**Severability** - if any portion of the agreement is determined to be invalid, it does not invalidate the other conditions of the agreement.

**Entire Agreement** - states that the agreement is represented in its entirety and there are no other understandings in effect related to the subject of the agreement.

**Agreement Administration** - states the individuals by name or position who are responsible to administer the agreement.

## **Attachments**

**Scope of Work** - a detailed statement of the service provisions of the agreement.

**Budget** - a detailed statement and breakout of the total funds to be reimbursed to the contractor.



**INTERLOCAL AGREEMENT BETWEEN  
OSWEGO COUNTY, WASHINGTON  
AND  
SYCAMORE COUNTY, WASHINGTON**

This INTERLOCAL AGREEMENT, entered into by OSWEGO COUNTY (hereinafter referred to as the CONTRACTOR and SYCAMORE COUNTY (hereinafter referred to as the COUNTY), WITNESS THAT:

The COUNTY desires to engage the CONTRACTOR to perform certain tasks as hereinafter agreed upon by both parties.

NOW, THEREFORE, in consideration of covenants, conditions, performances and promises hereinafter contained, the parties hereto agree as follows:

**1. FUNDING**

The total funds to be reimbursed to the CONTRACTOR for the agreement period shall be a sum not to exceed twenty thousand dollars (\$20,000).

**2. SERVICE PROVISIONS**

a) The CONTRACTOR shall use the funds solely for providing public works personnel and equipment upon request of the COUNTY during an emergency or disaster.

b) ATTACHMENT A, Statement of Work and ATTACHMENT B, Project Budget, are, by reference, incorporated into this agreement.

**3. AGREEMENT PERIOD**

The effective date of this agreement shall be the date the parties sign and complete the execution of this agreement. The agreement shall be reviewed bi-annually. The termination date of this agreement shall be \_\_\_\_\_, 20\_\_.

**4. REIMBURSEMENT PROVISIONS**

The CONTRACTOR shall mail an invoice voucher to the COUNTY not later than fifteen (15) working days after the termination of the emergency or disaster. Within twenty (20) days after receiving the voucher, the COUNTY shall remit to the CONTRACTOR a warrant covering the cost of the prior agreed upon activities.

**5. ADVANCE PAYMENTS PROHIBITED**

The Department shall make no payments in advance or in anticipation of goods or services to be provided under this contract. Contractor shall not invoice the Department in advance of delivery of such goods or services.

## 6. RECAPTURE PROVISION

In the event that the CONTRACTOR fails to expend funds under this agreement in accordance with state laws and/or the provisions of this agreement, the COUNTY reserves the right to recapture funds in an amount equivalent to the extent of the noncompliance.

Such a right of recapture shall exist for a period not to exceed three years following agreement termination. Repayment by the CONTRACTOR of funds under this recapture provision shall occur within 30 days of demand. In the event that the COUNTY is required to institute legal proceedings to enforce the recapture provision, the COUNTY shall be entitled to its costs thereof, including reasonable attorney's fees.

## 7. EVALUATION AND MONITORING

a) The CONTRACTOR shall cooperate with and freely participate in any monitoring or evaluation activities conducted by the COUNTY that are pertinent to the intent of this agreement.

b) The COUNTY or the State Auditor or any of their representatives shall have full access to and the right to examine during normal business hours and as often as the COUNTY or the State Auditor may deem necessary, all of the CONTRACTOR'S records with respect to all matters covered in this agreement. Such representatives shall be permitted to audit, examine and make excerpts or transcripts from such records and to make audits of all contracts, invoices, materials, payrolls and records of matters covered by this agreement. Such rights last for three years from the date final payment is made hereunder.

## 8. NONDISCRIMINATION PROVISION

There shall be no discrimination against any employee who is paid by the funds indicated in the agreement or against any applicant for such employment because of race, color, religion, handicap, marital status, political affiliation, sex, age, or national origin. This provision shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, lay-off or termination, rates of pay or other forms of compensation and selection for training.

## 9. AGREEMENT MODIFICATIONS

The COUNTY and the CONTRACTOR may, from time to time, request changes in services to be performed with the funds. Any such changes that are mutually agreed upon by the COUNTY and the CONTRACTOR shall be incorporated herein by written amendment to this agreement. It is mutually agreed and understood that no alteration or variation of the terms of the agreement shall be valid unless made in writing and signed by the parties hereto and that any oral understanding or agreements not incorporated herein, unless made in writing and signed by the parties hereto, shall not be binding.

#### 10. SUBCONTRACTS

Except as otherwise provided herein, the CONTRACTOR shall not enter into subcontracts for any of the work contemplated under this agreement without obtaining prior written approval of the COUNTY.

#### 11. TERMINATION OF AGREEMENT

a) If, through any cause, the CONTRACTOR shall fail to fulfill in a timely and proper manner its obligations under this agreement or if the CONTRACTOR shall violate any of its covenants, agreements, or stipulations of this agreement, the COUNTY shall thereupon have the right to terminate this agreement and withhold the remaining allocation if such default or violation is not corrected within twenty (20) days after submitting written notice to the CONTRACTOR describing such default or violation.

b) Notwithstanding any provisions of this agreement, either party may terminate this agreement by providing written notice of such termination, specifying the effective date thereof, at least thirty (30) days prior to such date.

c) Reimbursement for CONTRACTOR services performed and not otherwise paid for by the COUNTY prior to the effective date of such termination, shall be as the COUNTY reasonably determines.

d) The COUNTY may unilaterally terminate all or part of this agreement, or may reduce its scope of work and budget, if there is a reduction in funds by the source of those funds and if such funds are the basis for this agreement.

#### 12. CONTRACTOR NOT EMPLOYEE OF AGENCY

The CONTRACTOR, his/her employees or agents performing under this agreement, are not deemed to be employees of the COUNTY nor as agents of the COUNTY in any manner whatsoever. The CONTRACTOR will not hold himself/herself out as nor claim to be an officer or employee of the COUNTY or of the state of Washington by reason hereof and will not make any claim, demand, or application to or for any right or privilege application to an officer or employee of the COUNTY or of the state of Washington.

#### 13. RECORDS, DOCUMENTS AND REPORTS

The CONTRACTOR shall maintain books, records, documents, and other evidence and accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature, expended in the performance of this agreement. These records shall be subject at all reasonable times to inspection, review, or audit by COUNTY personnel and other personnel duly authorized by the COUNTY or the Office of the State Auditor. The CONTRACTOR will retain all books, records, documents, and other material relevant to this agreement for three years after expiration and the Office of the State Auditor, or any persons duly authorized by the COUNTY shall have full access to and the right to examine any of said materials during said period.

14. TRAVEL AND SUBSISTENCE REIMBURSEMENT

In the absence of provisions included herein, travel expenses shall be paid in accordance with rates set pursuant to Chapters 43.03.050 and 43.03.060 Revised Code of Washington as now existing or amended.

15. SPECIAL PROVISION

The COUNTY'S failure to insist upon the strict performance of any provision of this agreement or to exercise any right based upon a breach thereof of the acceptance of any performance during such breach shall not constitute a waiver of any right under this agreement.

16. HOLD HARMLESS

The CONTRACTOR agrees to defend and indemnify the state of Washington and COUNTY, their officers, agents, employees and assigns against any and all damages or claims from damages resulting or allegedly resulting from the CONTRACTOR'S performance or activities hereunder.

17. GOVERNING LAW AND VENUE

This agreement shall be constructed and enforced in accordance with the laws of the state of Washington thereof and shall govern the validity and performance. Venue of any suit between the parties arising out of this contract shall be the Superior Court of Thurston County, Washington.

18. SEVERABILITY

In the event any term or condition of this agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this agreement that can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this agreement are declared severable.

19. ENTIRE AGREEMENT

This agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties hereto.

20. AGREEMENT ADMINISTRATION

a) CONTRACTOR'S representative shall be \_\_\_\_\_.

b) COUNTY'S representative shall be \_\_\_\_\_.

IN WITNESS WHEREOF, the COUNTY and CONTRACTOR have executed this agreement as of the date and year written below.

\_\_\_\_\_  
Person authorized to sign for COUNTY  
Title  
Organization

\_\_\_\_\_  
Person authorized to sign for CONTRACTOR  
Title  
Organization

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

Telephone of Agreement Administrator:  
Street or P.O. to send agreement  
City, WA Zip Code

Telephone of Agreement Administrator:  
Street or P.O. to send agreement  
City, WA Zip Code

APPROVED AS TO FORM:

\_\_\_\_\_  
Prosecuting Attorney

DATE: \_\_\_\_\_

## **ATTACHMENT A**

### **STATEMENT OF WORK**

During an emergency or disaster, the CONTRACTOR shall provide public works personnel and equipment to the COUNTY for the purpose of responding to or recovering from the event. The personnel and equipment will be used for projects such as making fire trails, hauling sand, rocks, or gravel, making dikes and transporting materials. If the CONTRACTOR is affected by the emergency or disaster, the provisions of this agreement will not be invoked. If the CONTRACTOR is not affected by the same emergency or disaster, and has other interlocal agreements in effect, priority will be given to the COUNTY in providing support.

The CONTRACTOR personnel will be employed in accordance with the CONTRACTOR union agreement. The CONTRACTOR will maintain the equipment as agreed to. Time spent in equipment maintenance resulting from this agreement will be reimbursed at the prevailing rate.

EXAMPLE

## ATTACHMENT B

### PROJECT BUDGET

The hourly rate to be reimbursed to the CONTRACTOR for public works equipment to include operators is:

D-6 Caterpillar	\$100
D-8 Caterpillar	\$125
Road Grader	\$ 75
Front Loader	\$ 50
Back Hoe	\$ 85
Dump Truck (6 yards)	\$100
Dump Truck (8 yards)	\$120

The COUNTY as an integral part of the agreement will provide fuel to the CONTRACTOR.